

This letter discusses the Manufacturing Machinery & Equipment exemption and meat slicers. See 86 Ill. Adm. 130.300. (This is a GIL.)

January 14, 2005

Dear Xxxxx:

This letter is in response to your fax dated January 27, 2004, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.ILTAX.com to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

Would you please answer a question I have about new and used equipment purchased and used for meat processing in a wholesale and retail establishment. We have purchased a new slicer and need to know if this is subject to tax and if so at what rate. Would you please answer by mail or fax.

DEPARTMENT'S RESPONSE:

For your general information we are enclosing a copy of 86 Ill. Adm. Code 130.330, regarding the Manufacturing Machinery and Equipment exemption. The Retailers' Occupation Tax does not apply to sales of machinery and equipment used primarily (over 50% of the time) in the manufacturing of tangible personal property for wholesale or retail sale or lease. Your letter indicates that you are engaged in meat processing and that your products are subsequently sold at wholesale or retail. Whether the equipment you use in this process qualifies for the exemption depends upon how it is used. No equipment, by itself, necessarily qualifies for the exemption.

Subsections (c) and (d) of Section 130.330 describe the nature of the exemption in more detail. As stated in these provisions, the equipment must be used primarily (over 50% of the time) in a production process to effect a direct and immediate physical change upon the tangible personal property to be sold.

Machinery and equipment used in the last step of the retail sale does not qualify for the exemption. See subdivision (d)(4)(J) of Section 130.330. For example, a meat slicer used primarily

(over 50% of the time) at a supermarket or deli to slice meat for purchase by retail customers does not qualify for the exemption. In contrast, a meat slicer used primarily (over 50% of the time) at a meat processing plant to slice meat as part of a meat processing operation does qualify for the exemption. The reason for this distinction is that meat processing is an activity commonly regarded as manufacturing, while a retailer's preparation of meat for retail sale is not commonly regarded as manufacturing. The exemption does not extend to hand tools used in any circumstance. If the meat slicer is taxable, the general merchandise rate imposed on this type of item is 6.25%, plus any applicable local taxes if the purchase occurs in Illinois. See, for example, 86 Ill. Adm. Code 270.115.

I hope this information is helpful. If you require additional information, please visit our website at www.ILTAX.com or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Sincerely,

Samuel J. Moore
Associate Counsel

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